

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

NORTHWEST ADMINISTRATORS, INC.,

Plaintiff,

v.

JACK H. CALDWELL & SONS, INC., a
California corporation,

Defendant.

NO.

COMPLAINT TO COLLECT TRUST
FUNDS AND TO COMPEL AUDIT

I.

Plaintiff, Northwest Administrators, Inc., is an organization incorporated under the laws of the State of Washington, with its principal place of business in King County, and is the authorized administrative agency for and the assignee of the Western Conference of Teamsters Pension Trust Fund (hereinafter "Trust").

II.

The Western Conference of Teamsters Pension Trust Fund is an unincorporated association operating as a Trust Fund pursuant to Section 302 of

COMPLAINT TO COLLECT TRUST FUNDS AND
TO COMPEL AUDIT - 1

Reid, McCarthy, Ballew & Leahy, L.L.P.
ATTORNEYS AT LAW

100 WEST HARRISON STREET • NORTH TOWER, SUITE 300
SEATTLE, WASHINGTON 98119
TELEPHONE: (206) 285-0464 • FAX: (206) 285-8925

1 the Labor Management Relations Act of 1947, as amended, to provide retirement
2 benefits to eligible participants.

3 III.

4 This Court has jurisdiction over the subject matter of this action under
5 Section 502(e)(1) and (f) of the Employee Retirement Income Security Act of 1974
6 ("ERISA"), 29 U.S.C. §1132(e)(1) and (f) and under §301(a) of the Taft-Hartley Act,
7 29 U.S.C. §185(a).
8

9 IV.

10 Venue is proper in this District under Section 502(e)(2) of ERISA, 29 U.S.C.
11 §1132(e)(2), because the Plaintiff Trust Fund is administered in this District.

12 V.

13 Defendant is a California corporation.
14

15 VI.

16 Defendant is bound to a collective bargaining agreement with Local 630 of
17 the International Brotherhood of Teamsters (hereinafter "Local"), under which the
18 Defendant was required to promptly and fully report for and pay monthly
19 contributions to the Trust at specific rates for each hour of compensation (including
20 vacations, holidays, overtime and sick leave) said Defendant paid to its employees
21 who were members of the bargaining unit represented by the Local (such
22 bargaining unit members were any of the Defendant's part time or full time
23
24

25 COMPLAINT TO COLLECT TRUST FUNDS AND
26 TO COMPEL AUDIT - 2

1 employees who performed any work task covered by the Defendant's labor contract
2 with the Local, whether or not those employees ever actually joined the Local).

3 VII.

4 Defendant accepted the Plaintiff's Trust Agreement and Declaration and
5 agreed to pay liquidated damages equal to twenty percent (20%) of all delinquent
6 and delinquent contributions due to the Trust, together with interest accruing
7 upon such delinquent contributions at varying annual rates from the first day of
8 delinquency until fully paid, as well as attorney's fees and costs the Trust incurs in
9 connection with the Defendant's unpaid obligations.
10

11 VIII.

12 Since the first day of May 2018, Defendant has failed to promptly report for
13 and pay to the Plaintiff Trust all amounts due as described above, and only
14 Defendant's records contain the detailed information necessary to an accurate
15 determination of the extent of the Defendant's unpaid obligations to the Trust.
16

17 IX.

18 Defendant accepted the Trust's Agreement & Declaration Agreement ("Trust
19 Agreement") which provides in part:

20 Each Employer shall promptly furnish to the Trustees or
21 their authorized representatives on demand any and all
22 records of his past or present Employees concerning the
23 classification of such Employees, their names, Social
24 Security numbers, amount of wages paid and hours
worked or paid for, and any other payroll records and
information the Trustees may require in connection with
the administration of the Trust Fund, and for no other

25 COMPLAINT TO COLLECT TRUST FUNDS AND
26 TO COMPEL AUDIT - 3

1 purpose. The Trustees or their authorized
2 representatives may examine any books and records of
3 each employer, which the Employer is required to furnish
4 to the Trustees on demand whenever such examination
5 is deemed necessary or desirable by the Trustees in the
6 proper administration of the Trust. If it becomes
7 necessary for the trustees to retain legal counsel to
8 compel an Employer to furnish to, or permit the
9 examination of books, or records or information by, the
10 Trustees or their representatives, the Employer shall
reimburse the Trust fund for all reasonable attorney's
fees and court costs incurred by the Trust Fund in
connection therewith, whether or not legal proceedings
were instituted and whether or not such examination
disclosed that the Employer has failed to make
appropriate or timely Employer Contributions to the Trust
Fund.

11 X.

12 The Trustees of the Western Conference of Teamsters Pension Trust deem
13 it both necessary and advisable to the proper administration of the Trust that their
14 authorized representatives examine the Defendant's books and records for the
15 inclusive period August 1, 2014 to the Present Date to determine if the Defendant
16 previously reported for and paid to the Trust all of the amounts due for the
17 Defendant's employment of members of the bargaining unit represented by the
18 Trust for said period.

20 XI.

21 Despite notification to the Defendant of the Trustees' desire to conduct an
22 audit for the period August 1, 2014 to the Present Date, and demands made upon
23 the Defendant on the Trust's behalf for access to Defendant's records for an
24

25 COMPLAINT TO COLLECT TRUST FUNDS AND
26 TO COMPEL AUDIT - 4

1 examination of them for that period, to date the Defendant has failed and refused to
2 make its records available for the thorough examination the Trustees deem
3 necessary and advisable to the proper administration of the Trust.

4 WHEREFORE, plaintiff, on the Trust's behalf, prays the court as follows:

5 1. That Defendant be compelled to render a monthly accounting to the
6 Plaintiff's attorneys and set forth in it the names and respective social security
7 numbers of each of the Defendant's employees who are members of the bargaining
8 unit represented by the Local, together with the total monthly hours for which the
9 Defendant compensated each of them, for the employment period beginning May
10 2018, to the date of service of this Complaint to collect Trust Funds, and for
11 whatever amounts may thereafter accrue;
12

13 2. That the Court enter an Order Compelling Audit under which
14 Defendant shall be directed by the Court, within a specified time, to make available
15 to the authorized representatives of the Trustees of the Trust for the period January
16 1, 2014 to the Present Date the records stated in "Attachment A" hereto.
17

18 3. Afford to the authorized representatives of the Trustees of the Trust
19 both ample time and opportunity to examine all such materials of Defendant at such
20 time and at such place as shall be convenient to the Trustees' authorized
21 representatives.
22

23 4. For judgment against the Defendant for:

24 a. All delinquent contributions due to the Trust;

25 COMPLAINT TO COLLECT TRUST FUNDS AND
26 TO COMPEL AUDIT - 5

- 1 b. All liquidated damages and pre-judgment interest due to the
2 Trust;
3 c. All attorney's fees incurred by the Trust in connection with
4 the Defendant's unpaid obligations and for gaining access
5 to Defendant's records;
6 d. All of the Plaintiff's costs incurred in connection with the
7 Defendant's unpaid obligations and for gaining auditor
8 access to defendant's records, and
9 e. For such other and further relief as the Court may deem just
10 and equitable.
11

12 DATED this 28th day of August, 2018.

13 REID, McCARTHY, BALLEW & LEAHY,
14 L.L.P.

15
16 
17 _____
18 Russell J. Reid, WSBA #2560
19 Attorney for Plaintiff
20
21
22
23
24

25 COMPLAINT TO COLLECT TRUST FUNDS AND
26 TO COMPEL AUDIT - 6

Reid, McCarthy, Ballew & Leahy, L.L.P.
ATTORNEYS AT LAW
100 WEST HARRISON STREET • NORTH TOWER, SUITE 300
SEATTLE, WASHINGTON 98119
TELEPHONE: (206) 285-0464 • FAX: (206) 285-8925

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

NORTHWEST ADMINISTRATORS, INC.,

DEFENDANTS

Jack H. Caldwell & Sons, Inc., a California corporation,

(b) County of Residence of First Listed Plaintiff King
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Russell J. Reid - 206-285-0464
Reid, McCarthy, Ballew & Leahy, L.L.P.
100 W. Harrison Street, N. Tower, Ste 300, Seattle WA 98119

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input checked="" type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

29 U.S.C. Sections 1132 and 185

Brief description of cause:

Suit to compel audit records & collect trust benefit contribs & related amts owed Taft-Hartley multi-employer fund

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

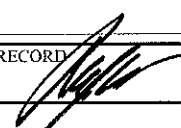
JUDGE

DOCKET NUMBER

DATE

8/28/18

SIGNATURE OF ATTORNEY OF RECORD



Russell J. Reid

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____